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The Federal Aviation Administration (FAA) reports that a number of owners or operators of large aircraft provide commercial transportation for a charge but are able to avoid commercial safety regulations and certificate requirements. There are wide differences between private and commercial aircraft safety regulations even though the same make and model of aircraft can be used for both private and commercial purposes. FAA officials believe that the incentive of higher profits through lower operating costs may lead some operators to avoid compliance with commercial regulations. Commercial regulations are avoided by leasing rather than chartering aircraft to users, purchasing cargo and then purporting to be transporting private goods while subsequently reselling the goods, and leasing aircraft on paper to foreign carriers. While uncertificated operations are primarily cargo operations based largely in southern Florida, they operate all over the United States; cargo is mainly textiles, livestock, or produce destined for the Caribbean and Central America. Past attempts to protect uninformed lessees and to enforce compliance with safety regulations have not been totally successful. There is a difference in the enforcement of commercial regulations by FAA regions. The FAA appears to have two options: (1) it can aggressively enforce existing regulations involving commercial operations; or (2) it could place all large aircraft operations under the same safety regulations. (RRS)

7840

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON D.C. 20548

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STATEMENT OF
HENRY ESCHWEGE, DIRECTOR
COMMUNITY AND ECONOMIC DEVELOPMENT DIVISION

BEFORE THE
HOUSE SUBCOMMITTEE ON GOVERNMENT ACTIVITIES AND TRANSPORTATION
OF THE
COMMITTEE ON GOVERNMENT OPERATIONS
ON
UNCERTIFICATED LARGE AIRCRAFT OPERATIONS

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

WE ARE HERE TODAY AT YOUR REQUEST TO DISCUSS OUR ONGOING REVIEW OF THE FEDERAL AVIATION ADMINISTRATION'S (FAA) ENFORCEMENT OF COMMERCIAL SAFETY REGULATIONS.

FAA REPORTS THAT A NUMBER OF OWNERS OR OPERATORS OF LARGE AIRCRAFT PROVIDE COMMERCIAL TRANSPORTATION, FOR A CHARGE, BUT ARE ABLE TO AVOID COMMERCIAL SAFETY REGULATIONS AND CERTIFICATE REQUIREMENTS. WE WILL ADDRESS HOW COMMERCIAL REGULATIONS ARE AVOIDED, WHAT THE SAFETY AND ECONOMIC IMPLICATIONS ARE, HOW THE FEDERAL AVIATION ADMINISTRATION HAS DEALT WITH THE PROBLEM, AND WHAT MORE NEEDS TO BE DONE.

BACKGROUND

THERE ARE PRIMARILY THREE TYPES OF LARGE AIRCRAFT OPERATORS-- PRIVATE OPERATORS, COMMERCIAL OPERATORS WHO CHARGE ON A PRIVATE CONTRACT BASIS, AND COMMON CARRIERS SUCH AS SCHEDULED AIR CARRIERS. (SEE APPENDIX)

LARGE AIRCRAFT (OVER 12,500 POUNDS) USED BY PRIVATE INDIVIDUALS OR ORGANIZATIONS MUST BE MAINTAINED AND OPERATED IN ACCORDANCE WITH PART 91 OF THE FEDERAL AVIATION REGULATIONS. IF COMPENSATION IS RECEIVED TO TRANSPORT PASSENGERS OR CARGO, THE AIRCRAFT ALSO MUST BE MAINTAINED AND OPERATED UNDER MORE STRINGENT COMMERCIAL REGULATIONS--PART 121 OF THE FEDERAL AVIATION REGULATIONS. AN FAA COMMERCIAL OPERATING CERTIFICATE IS ALSO REQUIRED. IF THE SERVICE IS ADVERTISED OR OTHERWISE HELD OUT TO THE PUBLIC (COMMON CARRIAGE), THE OPERATOR MUST OBTAIN AN APPROPRIATE FAA OPERATING CERTIFICATE, SUCH AS AN AIR CARRIER CERTIFICATE, COMPLY WITH COMMERCIAL SAFETY REGULATIONS, AND NORMALLY OBTAIN CIVIL AERONAUTICS BOARD APPROVAL.

COMMERCIAL VERSUS PRIVATE SAFETY REGULATIONS

THERE ARE WIDE DIFFERENCES BETWEEN PRIVATE AND COMMERCIAL AIRCRAFT SAFETY REGULATIONS FOR LARGE AIRCRAFT, EVEN THOUGH THE SAME MAKE AND MODEL OF AIRCRAFT CAN BE USED FOR PRIVATE OR COMMERCIAL PURPOSES. FOR EXAMPLE, UNDER COMMERCIAL REGULATIONS THERE ARE SPECIFIC REQUIREMENTS FOR A FORMAL MAINTENANCE MANUAL WHICH MUST BE FOLLOWED, CONTINUING MAINTENANCE AND CREW TRAINING, MINIMUM STAFF/ORGANIZATIONAL REQUIREMENTS, OVERHAUL OF CRITICAL ENGINE AND AIRFRAME COMPONENTS, AND CREW DUTY TIME LIMITS. UNDER PRIVATE REGULATIONS THERE ARE FEW SUCH REQUIREMENTS. THE COST DIFFERENCE OF MAINTAINING AN AIRCRAFT UNDER COMMERCIAL RATHER THAN PRIVATE REGULATIONS CAN BE CONSIDERABLE. FAA OFFICIALS BELIEVE THAT THE INCENTIVE OF HIGHER

PROFITS THROUGH LOWER OPERATING COSTS MAY LEAD SOME OPERATORS TO AVOID COMPLIANCE WITH COMMERCIAL REGULATIONS.

HOW COMMERCIAL REGULATIONS ARE AVOIDED

SOME PRIVATE LARGE AIRCRAFT OWNERS HAVE AVOIDED THE CERTIFICATE REQUIREMENTS AND THE COMMERCIAL SAFETY REGULATIONS BY LEASING RATHER THAN CHARTERING AIRCRAFT TO USERS. GENERALLY, FAA HAS HELD THAT IF THE OWNER LEASES THE AIRCRAFT WITHOUT A FLIGHT CREW (DRY LEASES), THE LESSEE BECOMES THE OPERATOR AND IS RESPONSIBLE FOR COMPLIANCE WITH PRIVATE SAFETY REGULATIONS. IF THE OWNER LEASES THE AIRCRAFT AND PROVIDES THE FLIGHT CREW (WET LEASES OR CHARTERS), THE OWNER IS THE OPERATOR AND MUST COMPLY WITH COMMERCIAL CERTIFICATE AND SAFETY REGULATION REQUIREMENTS.

AN OWNER THAT SUCCEEDS IN MAKING THE LEASE LOOK LIKE A DRY LEASE ON PAPER, WHILE ACTUALLY PROVIDING THE FLIGHT CREW EITHER DIRECTLY OR THROUGH A THIRD PARTY, MAY BE SUCCESSFUL IN AVOIDING COMMERCIAL SAFETY REGULATIONS. IT APPEARS THAT LESSEES SOMETIMES GO ALONG WITH THIS ARRANGEMENT BECAUSE OF THE LOWER COST, BUT IN OTHER CASES THEY UNKNOWINGLY ACCEPT OPERATIONAL CONTROL WITHOUT UNDERSTANDING THE ATTENDANT RESPONSIBILITIES AND LIABILITIES.

ON OCTOBER 2, 1970, A MARTIN 404 AIRCRAFT CARRYING 37 PASSENGERS CRASHED INTO A COLORADO MOUNTAIN, FATALLY INJURING TWO CREW MEMBERS AND 28 PASSENGERS OF THE WICHITA STATE UNIVERSITY FOOTBALL TEAM. ON OCTOBER 20, 1977, A CONVAIR 240 CARRYING 24 PASSENGERS CRASHED IN MISSISSIPPI,

FATALLY INJURING TWO CREW MEMBERS AND FOUR MEMBERS OF THE LYNYRD SKYNYRD BAND. ALTHOUGH THE NATIONAL TRANSPORTATION SAFETY BOARD DID NOT DETERMINE THEM TO BE THE DIRECT CAUSE OF THESE ACCIDENTS, THE CONTRACTUAL ARRANGEMENTS AND THE MISUNDERSTANDINGS OR DISAGREEMENTS AS TO OPERATIONAL CONTROL ARE SIMILAR. BOTH AIRCRAFT WERE SUPPOSEDLY DRY LEASED TO THE USERS, BUT THE BOARD REPORTED THAT APPARENTLY IN NEITHER CASE DID THE LESSEE KNOW THAT HE HAD RESPONSIBILITY FOR OPERATIONAL CONTROL OVER THE AIRCRAFT AND CREW. HAD THESE AIRCRAFT BEEN CHARTERED RATHER THAN LEASED, OPERATIONAL CONTROL WOULD NOT HAVE BEEN TRANSFERRED TO THE USER, AND THE FLIGHTS WOULD HAVE BEEN COMMERCIAL OPERATIONS REQUIRING MORE STRINGENT SAFETY MEASURES. FAA TOOK LEGAL ACTION IN THE FIRST CASE AND IS NOW INVESTIGATING THE SECOND ONE.

A LESS-USED METHOD OF AVOIDING COMMERCIAL SAFETY REGULATIONS IS EMPLOYED WHEN AN AIRCRAFT OWNER OR OPERATOR PURCHASES CARGO AND THEN PURPORTS TO BE TRANSPORTING HIS OWN GOODS WHILE ACTUALLY CARRYING A SHIPPER'S GOODS FOR RESALE TO THE SHIPPER'S CUSTOMER AT THE DESTINATION.

BECAUSE IT IS OFTEN DIFFICULT AND TIME CONSUMING TO DETERMINE THE TRUE NATURE OF SUCH OPERATIONS, FAA INSPECTORS ARE SOMETIMES UNABLE TO READILY DETERMINE IF COMMERCIAL SAFETY REGULATIONS SHOULD APPLY.

ANOTHER METHOD OF AVOIDING COMMERCIAL REGULATIONS MAY INVOLVE CERTAIN FOREIGN AIR CARRIERS. FAA AND CIVIL AERONAUTICS BOARD OFFICIALS IN MIAMI SUSPECT THAT SOME LEASE OPERATORS HAVE

AGREEMENTS WITH CARIBBEAN AND SOUTH AMERICAN FOREIGN AIR CARRIERS WHICH PERMIT THE LEASE OPERATOR TO DRY LEASE AIRCRAFT TO THE FOREIGN CARRIER ON PAPER, BUT THEN CONTINUE TO PROVIDE THE CREW AND OPERATE THE AIRCRAFT UNDER THE FOREIGN CARRIER'S OPERATING PERMIT. FAA REQUIRES FOREIGN AIR CARRIERS USING LEASED UNITED STATES REGISTERED AIRCRAFT IN THE UNITED STATES TO COMPLY ONLY WITH PRIVATE SAFETY REGULATIONS. IN ONE CASE A LEASE OPERATOR OWNED OR CONTROLLED OVER 70 PERCENT OF THE FOREIGN AIR CARRIER'S STOCK.

IN OTHER CASES, FOREIGN AIR CARRIERS WHICH LEGITIMATELY DRY LEASE AND OPERATE AIRCRAFT ARE ABLE TO USE THEM IN THEIR UNITED STATES OPERATION WHILE COMPLYING ONLY WITH PRIVATE SAFETY REGULATIONS. AT LEAST ONE FOREIGN CARRIER USES LEASED AIRCRAFT TO FLY PASSENGERS IN COMPETITION WITH UNITED STATES CARRIERS.

EXTENT OF UNCERTIFICATED OPERATIONS

THOSE SUSPECTED OF UNLAWFULLY AVOIDING COMMERCIAL REGULATIONS THROUGH LEASING OR OTHER MEANS ARE IDENTIFIED BY FAA AS UNCERTIFICATED OPERATORS. WHILE UNCERTIFICATED OPERATIONS ARE MAINLY CARGO OPERATIONS BASED PRIMARILY IN SOUTHERN FLORIDA, THEY OPERATE ALL OVER THE UNITED STATES. MOST OF THE CARGO IS TEXTILES, LIVESTOCK, OR PRODUCE DESTINED FOR THE CARIBBEAN AND CENTRAL AMERICA. THERE HAVE BEEN A NUMBER OF PASSENGER OPERATIONS INVOLVING ROCK BANDS, CHURCH GROUPS, AND GAMBLING PATRONS FOR CASINOS AND HOTELS.

FAA OFFICIALS IDENTIFIED ABOUT 90 SUSPECTED UNCERTIFICATED OPERATORS IN THE MIAMI AREA, USING NEARLY 150 AIRCRAFT. THE AIRCRAFT RANGE IN SIZE FROM THE TWIN ENGINE DC-3's TO BOEING 707's AND DC-8's. FAA DOES NOT KNOW THE ACTUAL EXTENT OF UNCERTIFICATED OPERATIONS. IN SOME CASES THEY ONLY BECOME AWARE OF SUCH OPERATIONS AFTER AN ACCIDENT.

TYPICALLY, AIRCRAFT ARE BOUGHT WHEN AIR CARRIERS SELL EQUIPMENT WHICH ARE SOMETIMES DUE FOR COSTLY MAJOR OVERHAULS. THESE AIRCRAFT WHICH ARE OFTEN BEYOND THEIR ECONOMIC LIFE IN AIR CARRIER SERVICE, CAN BE USED IN PRIVATE OPERATIONS WITHOUT EXTENSIVE OVERHAUL. IF THEY ARE USED BY UNCERTIFICATED OPERATORS, CARGO AND PASSENGERS CAN BE TRANSPORTED AT A LOWER COST, BUT NOT AT THE HIGH LEVEL OF SAFETY AFFORDED UNDER COMMERCIAL SAFETY REGULATIONS.

COST ADVANTAGE

UNCERTIFICATED OPERATORS POSE A COMPETITIVE THREAT TO COMMERCIAL OPERATORS WHO COMPLY WITH COMMERCIAL REGULATIONS. ONE COMMERCIAL OPERATOR HAS STATED IN WRITING TO FAA, "IF PRIVATE AIRCRAFT OPERATORS ARE ALLOWED OR PERMITTED TO OPENLY COMPETE WITH THE REGULATED COMMERCIAL OPERATOR, THEN I AM PERSONALLY UNABLE TO JUSTIFY IN MY OWN MIND THE COSTS ASSOCIATED WITH MAINTAINING A COMMERCIAL OPERATOR CERTIFICATE." THIS COMMERCIAL OPERATOR SINGLED OUT THE HIGHER MAINTENANCE AND PILOT TRAINING STANDARDS AS FACTORS LEADING TO THE COST COMPETITIVE ADVANTAGE OF UNCERTIFICATED OPERATORS. FAA OFFICIALS TOLD US THAT UNCERTIFICATED OPERATORS MAY BE

ABLE TO OFFER TRANSPORTATION AT ABOUT HALF THE COST CHARGED BY COMMERCIAL OPERATORS.

SAFETY

ASIDE FROM A COST ADVANTAGE, UNCERTIFICATED OPERATORS MAY BE OPERATING UNSAFELY IN SOME CASES. SINCE 1973, LEASED AIRCRAFT OPERATED OUT OF FAA'S MIAMI AREA HAVE BEEN INVOLVED IN 18 ACCIDENTS. IN SOME CASES FAA HAS INITIATED INVESTIGATIONS TO DETERMINE IF THE OPERATION WAS UNLAWFUL AT THE TIME OF THE ACCIDENT. ALL WERE CARGO CARRYING AIRCRAFT. SIX WERE FATAL ACCIDENTS RESULTING IN 122 FATALITIES. THIS INCLUDES ONE CRASH IN A MIAMI RESIDENTIAL AREA IN WHICH SIX PERSONS ON THE GROUND WERE KILLED, AND ONE CRASH IN BOLIVIA IN WHICH 101 PERSONS ON THE GROUND WERE KILLED. SEVEN ACCIDENTS INVOLVED UNITED STATES REGISTERED AIRCRAFT LEASED TO A FOREIGN AIR CARRIER AT THE TIME OF THE ACCIDENT.

WE MADE A COMPARISON OF ACCIDENTS DURING TAKEOFF OR LANDING OPERATIONS AT MIAMI WHICH SHOWED THAT BETWEEN 1972 AND 1977, LEASED AIRCRAFT OPERATED UNDER PRIVATE REGULATIONS WERE INVOLVED IN FIVE ACCIDENTS, AND COMMERCIAL AIRCRAFT (INCLUDING AIR CARRIERS) ALSO HAD FIVE ACCIDENTS. COMMERCIAL AIRCRAFT DURING THIS TIME PERIOD, HOWEVER, HAD ALMOST THREE TIMES AS MANY TAKEOFFS AND LANDINGS. THE ACCIDENT RATE FOR LEASED AIRCRAFT OPERATED UNDER PRIVATE REGULATIONS IN MIAMI, THEREFORE, IS ALMOST THREE TIMES AS LARGE. MOREOVER, THE NUMBER OF LEASED AIRCRAFT ACCIDENTS MAY BE INCREASING. DURING THE FIRST SIX MONTHS OF 1978, LEASED AIRCRAFT OPERATED OUT OF

THE MIAMI AREA HAD SIX ACCIDENTS, COMPARED TO THREE FOR ALL OF 1977.

THE CAUSES OF THE ACCIDENTS SINCE 1973 ARE IN DOUBT IN SOME CASES. WE REVIEWED FAA AND NATIONAL TRANSPORTATION SAFETY BOARD FORMAL AND INFORMAL DOCUMENTS AND CONDUCTED SEVERAL INTERVIEWS TO LEARN WHAT FACTORS WERE PROVEN OR SUSPECTED TO BE RELEVANT TO THE ACCIDENT. THE RESULTS ARE:

	ACCIDENTS
IMPROPERLY LOADED OR RESTRAINED CARGO	4
MECHANICAL FAILURE	4
CREW ERROR/FATIGUE	4
IMPROPER MAINTENANCE	1
INADEQUATE INSPECTION	1
UNDETERMINED	<u>4</u>
TOTAL	18

IT IS DIFFICULT, IF NOT IMPOSSIBLE, TO DETERMINE IF ANY OF THESE ACCIDENTS COULD HAVE BEEN AVOIDED BY COMPLIANCE WITH COMMERCIAL SAFETY REGULATIONS. IN SOME CASES PRIVATE REGULATIONS WERE NOT COMPLIED WITH. SEVERAL FAA OFFICIALS THAT WE TALKED TO, HOWEVER, BELIEVE THAT BETTER CREW TRAINING, FLIGHT AND DUTY TIME LIMITS, BETTER WEIGHT AND BALANCE AND LOADING PROCEDURES, AND FORMAL MAINTENANCE PROGRAMS (ALL PART OF COMMERCIAL SAFETY REGULATIONS) COULD HAVE PREVENTED SOME OF THE ACCIDENTS.

COMPLIANCE WITH COMMERCIAL SAFETY REGULATIONS

PAST ATTEMPTS TO PROTECT UNINFORMED LESSEES AND ENFORCE COMPLIANCE WITH COMMERCIAL SAFETY REGULATIONS HAVE NOT BEEN TOTALLY SUCCESSFUL. REGULATIONS HAVE BEEN ADOPTED REQUIRING LESSEES TO NOTIFY FAA WHEN LEASES ARE EXECUTED AND AGAIN BEFORE THE FIRST FLIGHT. IN A NUMBER OF CASES, HOWEVER, PROPER NOTIFICATIONS ARE NOT BEING MADE, AND FAA HAS NOT AGGRESSIVELY ENFORCED THE NEW REGULATIONS.

A TRUTH-IN-LEASING CLAUSE IDENTIFYING THE RESPONSIBILITIES OF THE PARTIES TO A LEASE HAS BEEN MADE A REQUIRED LEASE PROVISION, AND AN EDUCATIONAL CIRCULAR ON THE HAZARDS OF LEASING HAS BEEN DEVELOPED. THESE MEASURES ALSO HAVE NOT BEEN TOTALLY SUCCESSFUL IN PREVENTING UNKNOWLEDGEABLE LESSEES FROM ACCEPTING OPERATIONAL CONTROL.

EVEN WHEN UNLAWFUL OPERATIONS ARE UNCOVERED AND ENFORCEMENT ACTIONS TAKEN, FAA OFFICIALS SAID LEASING COMPANIES SOMETIMES AVOID INJUNCTIONS OR CEASE AND DESIST ORDERS BY CHANGING THEIR NAMES, LOCATIONS, OR BOTH. MANY CAN ABSORB AS A COST OF DOING BUSINESS THE RELATIVELY SMALL FINES THAT ARE IMPOSED. FAA HAS PROPOSED LARGER CIVIL PENALTIES (VIOLATIONS ARE SUBJECT TO \$1,000 PER VIOLATION) AND FAA OFFICIALS SAID THEY NEED EITHER MORE PRIORITY AND COOPERATION FROM UNITED STATES ATTORNEYS IN PROSECUTING CASES, OR A DELEGATION OF CIVIL PROSECUTING AUTHORITY. FAA OFFICIALS ALSO CITED A NEED FOR FAA INSPECTORS TO DO A BETTER JOB OF DEVELOPING THE NECESSARY FACTS TO SUBSTANTIATE A CASE.

WE NOTED A DIFFERENCE IN ENFORCEMENT OF COMMERCIAL REGULATIONS BETWEEN FAA'S REGIONS. THE SOUTHWEST REGION APPEARS TO HAVE MORE STRONGLY ENFORCED THE USE OF COMMERCIAL REGULATIONS ON A DAY-TO-DAY BASIS THAN THE SOUTHERN REGION. ONE OFFICIAL IN THE SOUTHWEST REGION SAID LEASE OPERATORS HAVE COMPLAINED THAT THEY CANNOT OPERATE WITH THE SAME FREEDOM THEY HAVE IN THE SOUTHERN REGION. THE SOUTHERN REGION DID HAVE SOME SUCCESS, HOWEVER, WITH A 1977 SPECIAL PROGRAM TO ENFORCE THE USE OF COMMERCIAL REGULATIONS. SIX OF 17 SUSPECTED OPERATORS THAT WERE THOUGHT TO BE REASONABLY ACTIVE WERE INVESTIGATED. UNDER THREAT OF FINES, THREE AGREED TO CONDUCT FUTURE OPERATIONS IN COMPLIANCE WITH COMMERCIAL REGULATIONS. THE OTHER THREE CEASED OPERATIONS AFTER BEING ISSUED INJUNCTIONS OR CEASE AND DESIST ORDERS. FAA OFFICIALS SAID THE SPECIAL PROGRAM WAS NOT CONTINUED, HOWEVER, BECAUSE OF INSUFFICIENT STAFF.

COMPLIANCE WITH PRIVATE SAFETY REGULATIONS

FAA OFFICIALS IN THE SOUTHERN REGION TOLD US THEY HAVE DEEMPHASIZED THE ENFORCEMENT OF COMMERCIAL REGULATIONS AND ARE INSTEAD TRYING TO ASSURE SAFETY USING PRIVATE REGULATIONS ONLY. A SPECIAL TRANSPORT UNIT HAS BEEN ESTABLISHED AT MIAMI TO MONITOR LARGE AIRCRAFT OPERATIONS. WE LEARNED THE FOLLOWING THROUGH OBSERVATIONS OR DISCUSSIONS WITH FAA OFFICIALS IN MIAMI WITH REGARD TO ENFORCEMENT OF PRIVATE REGULATIONS.

--CURRENT STAFF LEVELS PREVENT RANDOM CHECKS TO INSURE THAT REQUIRED AIRCRAFT INSPECTION PROGRAMS ARE USED,

OR AIRWORTHINESS DIRECTIVES COMPLIED WITH. AIRWORTHINESS DIRECTIVES FOR A GIVEN AIRCRAFT MODEL ARE OFTEN BASED ON THE AIRCRAFT'S PRIOR ACCIDENTS AND INCIDENTS AND INCLUDE ACTIONS SUCH AS A SPECIFIC INSPECTION OR PART CHANGES.

--QUALIFIED STAFF IS NOT AVAILABLE TO CONDUCT RANDOM FLIGHT CREW PROFICIENCY EVALUATIONS. REQUIRED PERIODIC FLIGHT EVALUATIONS ARE CONDUCTED BY DESIGNATED EXAMINERS WHO ARE NOT FAA EMPLOYEES. UNLESS FAA AT LEAST MONITORS SOME OF THESE PROFICIENCY FLIGHTS, THEY CANNOT BE SURE THAT DESIGNATED EXAMINERS ARE DOING THEIR JOB PROPERLY.

--UNLIKE ITS PRACTICE FOR COMMERCIALY OPERATED AIRCRAFT, FAA DOES NOT PROVIDE FOR ROUTINE INSPECTION OF OPERATING (ENGINES RUNNING) PRIVATE LARGE AIRCRAFT OR ITS SUBSYSTEMS. AIRCRAFT INSPECTIONS ARE NORMALLY CONFINED TO AIRCRAFT WHILE NOT IN OPERATION.

THE NATIONAL TRANSPORTATION SAFETY BOARD HAS RECENTLY QUESTIONED THE ADEQUACY OF PRIVATE REGULATIONS TO ENSURE SAFE OPERATION OF LARGE AIRCRAFT. BASED ON ITS ANALYSIS, THE BOARD HAS CALLED FOR A REVIEW AND UPDATE OF PRIVATE REGULATIONS THAT RELATE TO MAINTENANCE PROGRAM REQUIREMENTS, LEASING STIPULATIONS, FLIGHT CREW QUALIFICATIONS, FLIGHT AND DUTY TIME LIMITATIONS, OPERATIONAL CONTROL, AND WEIGHT AND BALANCE PROCEDURES.

WHAT NEEDS TO BE DONE

OUR RECOMMENDATIONS HAVE NOT BEEN FINALIZED, BUT IN ADDRESSING THE PROBLEMS DISCUSSED HERE, FAA APPEARS TO HAVE AT LEAST TWO OPTIONS. FIRST, IT CAN AGGRESSIVELY ENFORCE EXISTING REGULATIONS INVOLVING COMMERCIAL OPERATIONS. THIS WOULD ENTAIL A CONCERTED EFFORT TO IDENTIFY, INVESTIGATE, AND PROSECUTE THOSE WHO ARE IMPROPERLY ENGAGING IN COMMERCIAL OPERATIONS. THIS WOULD INCLUDE CLOSE MONITORING OF THOSE WHO OPERATE UNDER FOREIGN AIR CARRIER PERMITS. RULES INVOLVING LEASE NOTIFICATIONS WOULD HAVE TO BE STRICTLY ENFORCED AND LESSEES WOULD HAVE TO BE APPRISED OF THEIR RESPONSIBILITIES. GREATER FINES SHOULD BE SOUGHT TO ACT AS DETERRENENTS. THOSE INVESTIGATING VIOLATIONS SHOULD BE ADEQUATELY TRAINED IN WHAT EVIDENCE IS NEEDED TO SUBSTANTIATE A VIOLATION. SAFETY SHOULD IMPROVE IF COMMERCIAL REGULATIONS ARE STRICTLY ENFORCED, AND ALL THOSE ACTUALLY ENGAGED IN COMMERCIAL OPERATIONS WOULD BE PLACED ON A MORE EQUITABLE COMPETITIVE BASIS.

A SECOND OPTION WOULD ENTAIL PLACING ALL LARGE AIRCRAFT OPERATIONS UNDER THE SAME SAFETY REGULATIONS. THIS WOULD ELIMINATE THE NEED TO DETERMINE HOW AIRCRAFT ARE BEING USED BEFORE DECIDING WHICH SAFETY REGULATIONS SHOULD APPLY. A VARIATION OF THIS OPTION WAS PROPOSED BY A DEPARTMENT OF TRANSPORTATION TASK FORCE FORMED IN 1971 TO STUDY LEASE AND CHARTER OPERATIONS. THE TASK FORCE REPORT, KNOWN AS THE "ADMIRAL SMITH REPORT", RECOMMENDED THAT NEW REGULATIONS

COMPARABLE TO EXISTING COMMERCIAL REGULATIONS BE DEVELOPED FOR THE MAINTENANCE AND OPERATION OF ALL PRIVATELY OPERATED LARGE AIRCRAFT. ONCE THEY HAVE PROVEN TO BE EFFECTIVE, THE COMMERCIAL OPERATOR DESIGNATION WOULD BE ELIMINATED AND THEIR OPERATIONS WOULD THEN BE INCLUDED UNDER THE NEW REGULATIONS. THIS WOULD ELIMINATE THE COMPETITIVE ADVANTAGE OF PRIVATE LEASE OPERATORS OVER COMMERCIAL OPERATORS.

IN RESPONDING TO THE ADMIRAL SMITH REPORT, FAA MADE SOME CHANGES TO TIGHTEN REGULATIONS PERTAINING TO PRIVATELY OPERATED LARGE AIRCRAFT, BUT FAA OFFICIALS TOLD US THAT THE REVISED REGULATIONS FELL FAR SHORT OF BEING COMPARABLE TO COMMERCIAL REGULATIONS. FAA IS NOW CONSIDERING ANOTHER REGULATORY CHANGE WHICH WOULD MORE FULLY IMPLEMENT THE ADMIRAL SMITH RECOMMENDATIONS. THESE CHANGES WOULD APPLY TO ALL NON-AIR CARRIER UNITED STATES REGISTERED LARGE AIRCRAFT.

WHATEVER COURSE OF ACTION IS SELECTED, THE REGULATIONS THAT ARE APPLICABLE MUST BE STRICTLY ENFORCED. CHECKS MUST BE MADE TO DETERMINE IF INSPECTION PROGRAMS AND AIRWORTHINESS DIRECTIVES ARE IMPLEMENTED. FAA SHOULD NOT TOTALLY RELY ON NON-FAA FLIGHT EVALUATIONS, PARTICULARLY IN PROBLEM AREAS.

FINALLY, SOME FAA OFFICIALS BELIEVE UNCERTIFICATED OPERATORS MAY AVOID STIFFER REGULATION BY MOVING THEIR OPERATION TO A FOREIGN COUNTRY AND THEN CONTINUE TO OPERATE IN THE UNITED STATES UNDER A FOREIGN OPERATING PERMIT. FAA, IN CONJUNCTION WITH THE CIVIL AERONAUTICS BOARD, NEEDS TO ADDRESS THIS POSSIBILITY.

MR. CHAIRMAN WE WILL BE GLAD TO RESPOND TO ANY QUESTIONS YOU MAY HAVE.

APPENDIX

CATEGORIES OF LARGE AIRCRAFT OPERATORS

<u>PRIVATE OPERATORS</u>	<u>COMMERCIAL OPERATORS</u>	<u>COMMON-CARRIERS</u>
Comply only with Part 91 private Federal Aviation Regulations.	Comply with designated sections of Part 121 Commercial Aviation Regulations.	Comply with designated sections of Part 121 Commercial Aviation Regulations.
Private Carriage: Engaged in the carriage of own goods or passengers without charge.	Private Carriage: Can have a limited number of contracts to carry cargo or passengers for a charge. Advertising or holding out to the public is not allowed.	Common Carriage: Can advertise or hold out to the public and charge for transporting cargo or passengers.
No CAB authorization is required.	No CAB authorization is required.	CAB authorization is normally required.
No FAA operating certificate required.	FAA commercial operating certificate required.	FAA air carrier, or other appropriate operating certificate required.
About 3,000 large aircraft in the private aircraft fleet.	26 commercial operators use 144 aircraft.	About 90 common carriers use 2,500-plus aircraft.